

MINUTES

Montana Fish and Wildlife Commission Meeting

Miles City Community College, Room 106

2715 Dickinson Street, Miles City, MT 59301

October 10, 2013

Commission Members Present: Dan Vermillion, Chairman, Richard Stuker, Vice-Chairman,
Matthew Tourtlotte, Larry Wetsit, Gary Wolfe (via telephone)

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director and FWP Staff.

Guests: October 10, 2013 - See Commission file folder for sign-in sheet.

Topics of Discussion:

1. Call to Order - Pledge of Allegiance
2. Approval of Minutes of August 29, 2013 Commission Meeting
3. Approval of Commission Expenses
4. Commission Reports
5. Director's Report
6. 2014 Commission Meeting Calendar – Proposed
7. Vehicle-killed Wildlife Salvage ARM Rules – Final
8. Water Supply Update
9. Lower Big Spring Creek FAS Acquisitions – Final

10. Upper Big Spring Creek FAS Acquisitions – Final
11. Seeley Lake Bass Limit – Proposed
12. Fishing Regulation Changes for 2014 – Final
13. Land Projects:
 - North Shore Flathead Lake WMA Addition (R1) - Final
 - Elk Island WMA Addition – Final
 - Fish Creek WMA Addition (R2) – Endorsement
 - Garrity Mountain WMA Addition (R2) – Endorsement
 - Vanisko Conservation Easement (R2) – Endorsement
 - Mt. Haggin WMA Addition (R3) – Endorsement
 - Wall Creek WMA Addition (R3) – Endorsement
 - Blackleaf WMA Addition (R4) – Endorsement
 - Marias River WMA Exchange (R4) – Endorsement
 - Stellar Creek Conservation Easement (R7) – Endorsement
14. Emergency Deer Season Adjustments in Region 4 Due to EHD – Final
15. Wolf ARM Rules (SB200) - Proposed
16. Elk Management Guidelines in Areas with Brucellosis 2014 Work Plan – Final
17. Public Comment – For Issues Not On This Agenda

1. Call to Order - Pledge of Allegiance

Chairman Vermillion called the meeting to order at 8:43 a.m. and led the Pledge of Allegiance.

2. Approval of the Commission Meeting Minutes of August 8, 2013

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion to approve the August 29, 2013 minutes. Motion carried.

3. Approval of Commission Expenses

Action: Commissioner Stuker moved and Commissioner Wetsit seconded the motion to approve the Commission expenses. Motion Carried.

4. Commission Reports

Commissioner Wetsit reported he has received numerous phone calls and correspondence regarding the wolf killed in the Gardner basin. Attended the State Tribal Bison meeting in August; glad to see the issues being addressed and the willingness of all parties involved to participate and work together. Attended the facilitated bison management meeting in Lewistown; good to hear people's feelings and comments. Attended the Region 6 Citizens Advisory Committee (CAC) meeting.

Commissioner Tourtlotte reported he has received phone calls from people concerned about sportsman issues. Received two phone calls regarding the collared wolf killed in the Gardner basin and requesting to adjust the quota. Attended the FWP Foundation meeting in Missoula; the Foundation is funding a group that is advocating sportsman and landowners and also funding the new raptor cage at Montana Wild.

Commissioner Stuker reported he received correspondence regarding the wolf killed in Gardner. Toured the Lost River Ranch with Director Hagener, FWP employees, local Commissioners, DNRC, Representative Kris Hansen and area residents; very cordial and good discussions; visited with a landowner with in-holdings by the ranch. Attended the bison management meeting in Lewistown; great discussions; the group was evenly split between agricultural, sportsman, and environmental interest, would have liked to of seen more hunters/sportsman on the committee; the consensus was that free roaming bison is not a term that we should be using, SB 212 states they have to be contained whether its natural containment or enclosed fencing; numerous people are against any bison transfer. Attended the Sun River work group meeting in Conrad; Director Hagener was the main speaker and explained the issues FWP is facing; ex-Commissioner, Stan Myers stated he is opposed to any bison being put on the landscape and does not want any sportsman dollars put towards bison; discussions about the EHD outbreak, possibly 70% of whitetail deer have died; and the possibility of land coming up for purchase around the Sun River area. Stated Governor Bullock appointed him Vice Chairman and Joe Perry as Chairman of the Private Land Public Wildlife Advisory Council (PLPW); names have been submitted to the Governor; hoping the first meeting will be in December.

Chairman Vermillion thanked Region 7 staff for hosting the meeting and open house. Toured Intake Dam and the troubling development of the dam and pallid sturgeon; good opportunity for people to get engaged with the project; eye opening trip. Toured Seven Sister and Black Island Wildlife Management Areas (WMA); quality recreational activities; excellent condition. All rivers in southwestern Montana have been reopened. Attended a working group formation meeting in Emigrant for the brucellosis action plan; conversation about the buffalo EA being considered by FWP. Attend the AWEA winter meeting in Portland; major discussion on the Farm Bill provisions.

Commissioner Wolfe reported the die-off of approximately 400 whitetail deer have been confirmed of having Epizootic Hemorrhagic Disease (EHD). All drought restrictions have been lifted. Several game damage hunts, most have been in Region 2 for elk and/or whitetail deer. Department of Transportation (DOT) permanently adopted the nighttime speed limit of 55 mph on Highway 83; the Department made a compelling case; appreciates the Commission submitting the letter. Received a lot of calls/emails regarding the 2014 game and archery season setting. Attended a Helena Hunters and Anglers meeting; Quentin gave an excellent presentation. Attended a Region 1 CAC meeting; a lot of issues were discussed, including the fisheries issues in Noxon Reservoir and Flathead Lake.

5. Director's Report

Director Hagener reported Commissioner Stuker and himself toured the Lost River Ranch; good discussions; will be looking at purchases, exchanges and in-holdings in the near future. Sage Grouse Advisory Council has drafted a preliminary finalized executive order; the Governor will put it out up approval. Attended AFWA meeting in Portland; a lot of discussion on endangered species; mainly sage grouse and wolverines; Department has concerns regarding the proposal for the wolverine listing being based on science due to climate change; will be attending meeting with US Fish and Wildlife Service (FWS) next month. Had EHD meeting in Conrad; a lot of concern and discussion. Licensing Advisory Council is moving forward positively; looking at licensing fees for hunters and fisherman

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and funding resources for everyone involved. The PLPW Council has not been formed as of yet; hoping to have a meeting in December. FWP was the main attraction at the Environmental Quality Council (EQC) meeting; discussion on a lot of issues. Continuing conversations on the Flathead Lake Trout issue and Intake Dam; did get a commitment from all parties involved with Intake Dam to remain responsible on any issues that may arise. Met with the Gallatin Wildlife Association and Region 3 employees regarding grazing management. The Park Board had their first meeting in September; going to try and have a joint meeting early next year to discuss overlapping issues. FWP employees attended a meeting with the Department Environment Quality (DEQ) regarding Black Butte mine; have a lot of serious concerns.

6. 2014 Commission Meeting Calendar – Proposed

Director Hagener explained the calendar is scheduled a year in advance but changes can be made at a later date; suggested having a couple meetings in other Regions.

Chairman Vermillion recommends hosting a meeting in the Bozeman/Livingston area, Missoula and have the May meeting in Glendive during the opening season of paddlefish; very unique experience.

Commissioner Stuker stated he would like a meeting held in the northwestern part of the state; recommends Kalispell instead of Missoula.

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Commissioner Wolfe suggested that the meeting to be held in Kalispell instead of Missoula since it is much easier for residents of Region 2 to attend meetings in Helena than it is for those in Region 1. He felt Region 1 sportsman and landowners would be appreciative of a meeting in Kalispell.

Chairman Vermillion proposed the following meetings:

May 22, 2014, Glendive – July 10, 2014 Kalispell – October 9, 2014 Bozeman/Livingston.

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion to approve the tentative 2014 Commission Meeting Calendar. Motion Passed.

Jim Kropp, Chief of Law Enforcement introduced two new enforcement officers in Region 7, Todd Enders and Jonathan Kaiser.

Chairman Vermillion welcomed and thanked Enders and Kaiser; tough job.

7. Vehicle-killed Wildlife Salvage ARM Rules – Final

Jim Kropp, Chief of Law Enforcement explained House Bill 247 allows individuals to salvage deer, antelope, moose and elk killed in vehicular collisions and provides authority for the Commission to create rules to implement this action. The proposed rules must be in place in order to implement the law. Following approval of the tentative rules on July 11, public comment was solicited and 86 public comments were received; most comments supported the proposal, many noted the permit system needed to be as simple as possible. As a result, FWP developed an electronic permitting system where individuals could go to a website, complete an application, agree to the terms and conditions of possession, and print a permit; a permit is necessary for each animal salvaged. The system would retain information for tracking or, if needed, future investigation.

PROPOSED ARM, Salvage Permits.

1. A deer, elk, moose, or antelope accidentally killed as a result of a vehicle collision may be salvaged and possessed if a permit is obtained from a peace officer or by the Department through an electronic application and issuing process.
2. Any animal taken for salvage must:
 - a. be taken in its entirety;
 - b. be presented to a peace officer or department regional office during regular business hours within 24 hours of taking possession of the animal to acquire a permit, or,
 - c. within 24 hours, acquire a permit through a Department established on-line method; and
 - d. be disposed of in accordance with 75-10-213, MCA and any meat rendered must be utilized for human consumption and may not be used for bait or any other purpose.
3. The salvage permit will be issued on a form provided by the Department.

4. Big game licenses and tags issued for the purpose of hunting shall not be used for purposes of salvaging animals.
5. All parts of animals salvaged shall be made available for inspection by a peace officer upon request.

Action: Commissioner Wolfe moved and Commissioner Stuker seconded the motion to approve the amended administrative rules regarding salvaging deer, elk, moose and antelope that have been killed in vehicular collisions.

Chairman Vermillion asked for public comment.

Commissioner Tourtlotte asked about the liability issues and if any other states have had liability issues.

Kropp explained the Department had direct discussions with the highway patrol and addressed concerns with the ARM rule. The Department is directing people in a safe manner, liability shouldn't be an issue. Contacted all fifty states, mainly electronically, asking for their road kill process; does not recall any specific incident.

Commissioner Tourtlotte asked how many permits does the Department predict to be issued.

Kropp stated Idaho issued 400 permits in their first year, anticipating being somewhat similar.

Chairman Vermillion stated his concerns are with poachers and what the enforcement division strategy is.

Kropp explained the burden of proof is on the Department; taking steps to help investigate, permits will go into a database and hopefully will be intertwined with the ALS system.

Chairman Vermillion asked to keep the Commissioners updated on any issues that may arise.

Action on Motion: Motion Passed.

8. Water Supply Update

Bruce Rich, Fisheries Administrator stated the Big Springs clean-up is completed; work on land sites still needs to be completed and potential follow-up. Gave a summer fishing restriction summary; all fishing restrictions have been lifted.

9. Lower Big Spring Creek FAS Acquisitions – Final

Bruce Rich, Fisheries Administrator explained on May 1, 2013, the Commission endorsed the Department's request to pursue a acquisition of approximately 21 acres of land for the purpose of providing fishing access to Lower Big Springs Creek near Lewistown. The parcel was appraised at \$250,000 and Bank of the Rockies, has agreed to sell the parcel for \$188,000 (\$60,000 will be allocated from the Montana Fish and Wildlife Conservation Trust) and would donate the remainder of the value. The creek is too small for float fishing and too large and/or deep for extensive wading, which means that sites are needed throughout the drainage in order to provide public access to the various reaches of the creek. This particular site would enable FWP to initiate the second phase of a stream restoration project and would allow for the expansion of the Lewistown City Trail network. The Department prepared an environmental assessment (EA) on acquiring this parcel and received 18 comments; 16 in support and 2 opponents expressed concerns with the cost of the parcel.

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission authorize FWP to purchase approximately 21 acres of land for the purpose of providing fishing access to Lower Big Springs Creek.

Chairman Vermillion asked what the source of funding will be for the remaining 128,000.

Rich stated the plan is to use Monsanto monies from the PCB settlement for the entire amount.

Chairman Vermillion asked for public comment.

JW Westman, Laurel Rod and Gun Club (LRGC) stated this acquisition is a good thing; encourages adoption.

Chairman Vermillion concurs with Mr. Westman's comment; what the Lewistown community has done, with help from FWP and the federal government with land and conservation fund land money is unbelievable; beautiful place.

Action on Motion: Motion Passed.

10. Upper Big Spring Creek FAS Acquisitions – Final

Bruce Rich, Fisheries Administrator explained on May 10, 2012, the Commission endorsed the Department's request to pursue acquisition of approximately 3 acres to 2 adjoining parcels of land for the purpose of providing fishing access to Upper Big Springs Creek near Lewistown. The Department has reached an agreement with the 2 landowners to purchase the parcels for a total of \$150,934. The creek is too small for float fishing and too large and/or deep for extensive wading, which means that sites are needed throughout the drainage in order to provide public access to various reaches of the creek and safe parking. This particular site would provide key access

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to the upper section of the creek, near the Big Springs Creek Hatchery. The Department prepared an EA on acquiring these parcels; 8 individuals and 1 local conservation group submitted comments. Supporters acknowledged the importance of public access sites on Big Springs Creek in order for anglers to safely fish this creek and avoid trespassing on private property; opposition included concerns that purchase of this site would preclude purchase of other critical parcels further downstream on Big Springs Creek and is unnecessary for access to the creek and could lead to conflicts with landowners.

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission authorizes FWP to purchase approximately three acres of land for the purpose of providing fishing access to Upper Big Springs Creek.

Chairman Vermillion asked for public comment.

Commissioner Stuker stated he is in favor of the acquisition.

Chairman Vermillion stated the neighbors sent a letter in support of the acquisition. Asked if the acquisition was funded by Senator Brenden's 2011 bill that puts a five acre limitation on FAS acquisitions.

Rich stated yes, the purchase will be paid by the 2011 acquisition allotment which is restricted to five acres sites or smaller.

John Gibson, Public Land/Water Access (PLWA) Association Citizen Advisory Board of Montana FWP Conservation Trust member, stated some purchases seem to be pricey but will never be cheaper; encourages to get the acquisition while the Department can.

Action on Motion: Motion Passed.

11. Seeley Lake Bass Limit – Proposed

Bruce Rich, Fisheries Administrator explained the fishing regulation process is based on a four-year cycle. The first year of each cycle is dedicated to actively soliciting ideas for changes from the public and the following three years of the off-cycle ideas are only solicited internally from FWP biologists, fish managers and enforcement personnel. Regulations are proposed to the Commission during off-cycle years only if they meet certain criteria: achieve enforcement needs, provide clarification, are important for species conservation,

removing regulations is no longer relevant, or fulfill direction provided in management plans. The fishing regulation proposals for 2014 are an off-cycle year; the next year with full public involvement will be 2016. If approved or changed by the Commission it will be posted on the FWP website along with a notice of a 30-day public comment period. Following public input, the proposal will be revised if necessary and the final proposed regulation will be submitted for approval at the December 12 Commission meeting. The proposed regulation change for Seeley Lake is in response to the illegal introduction of smallmouth bass in Seeley Lake. There is considerable potential for smallmouth to occupy portions of the Clearwater drainage in sufficient numbers to impact bull trout, cutthroat trout and other native species and immediate action is encouraged to harvest this species, combined with other management actions, are warranted. The potential for smallmouth bass is in contrast to largemouth bass which are already in the system, but have never achieved densities to warrant restrictive regulations. The FWP policy on Illegal and Unauthorized Introduction of Aquatic Wildlife discusses the use of fishing regulations as an option to respond to the presence of illegal fish species.

Action: Commissioner Wolfe moved and Chairman Vermillion seconded the motion to adopt FWP's proposed regulation change for the 2014 fishing season.

Chairman Vermillion asked if the primary concern is the predation of bull trout and west slope cutthroat by small mouth bass and is the small mouth bass considerably more aggressive as it relates to bull trout than lake trout.

Rich stated yes that is the primary concern and another concern is small mouth bass in Seeley Lake itself; they utilize the shoreline and they can do well in the stream environment; all Clearwater Lakes have sections of the Clearwater River fluctuating between the lakes and into the Blackfoot river.

Chairman Vermillion stated people moving fish into places where they don't belong is a serious crime; threatens the long term viability of all fish.

Action on Motion: Motion Passed.

12. Fishing Regulation Changes for 2014 – Final

Bruce Rich, Fisheries Administrator explained in detail the fishing regulation process. The following fishing regulation proposals for 2014 are:

Change: LITTLE BITTERROOT LAKE aka Bitterroot Lake

Salmon: 20 daily and 40 in possession, no more than 2 daily and 4 in possession over 12 inches.

Bass: No daily or possession limit for entire year.

New: SILVER LAKE (near Anaconda)

Closed to fishing July 1 through September 30 within a 50 yard radius of the mouth of Storm Lake Creek.

New: STORM LAKE CREEK (tributary to Silver Lake near Anaconda)

Closed to fishing July 1 through September 30 from the Silver Lake diversion structure located near the stream mouth down to where the stream enters Silver Lake.

Change: WARM SPRINGS CREEK (near Anaconda)

Open entire year on Warm Springs Wildlife Management Area (WMA). See Warm Springs WMA for additional regulations.

Open from third Saturday in May through November 30 outside the Warm Springs WMA.

Extended season downstream of Myers Dam: catch-and-release for trout December 1 to third Saturday in May with artificial lures only.

Closed to fishing July 1 through September 30 from Myers Dam downstream 50 yards.

Change: CANYON FERRY RESERVOIR

Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession any size.

Yellow perch: ~~15~~ 10 daily and in possession.

Walleye: ~~10~~ 12 daily, ~~no more than 4 over 16 inches, and~~ only 1 over 28 25 inches. Possession limit is twice the daily limit.

Northern pike: No limit.

Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice.

Change: HAUSER RESERVOIR (Including Canyon Ferry Dam tailwater and Lake Helena)

Combined Trout and Salmon: 5 trout and salmon daily and in combination and 10 trout and salmon in possession in any combination.

Walleye: 20 daily, only 1 over 25 28 inches. Possession limit is twice the daily limit.

Yellow perch: ~~25~~ 10 daily and ~~no possession limit.~~ *in possession, except from April 1 through June 30, only 1 fish daily and in possession, 14 inch minimum.*

Northern pike: No limit.

Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.

Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

Change: HOLTER RESERVOIR (Up to American Bar Gulch (approx. 4.6 miles downstream from Hauser Dam))

Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.

Combined Trout and Salmon: 5 rainbow trout and salmon daily in any combination and 10 rainbow trout and salmon in possession in any combination.

Yellow perch: 25 daily and no possession limit.

Walleye: 10 daily, only 1 over 25 28 inches. , and ~~all fish between 20 and 28 inches must be released.~~ Possession limit is twice the daily limit.

Northern pike: No limit.

Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

NEW: PELICAN POINT POND #1 (*largest pond on Pelican Point FAS--near Cascade*)

Northern Pike: No Limit

The proposed regulations were posted on the FWP website for public comment August 13-September 12. A total of 66 comments were received within the comment period. All proposals received more support than opposition. The North Fork trout hybrid proposal was withdrawn due to a variety of concerns expressed in the comments; FWP will work with commenter's to address their concerns before proposing this regulation again. The proposed closure distance on Silver Lake for bull trout was reduced in response to the comment that it impacts fishing opportunity there. The Little Bitterroot Lake proposal was modified to specifically apply to smallmouth bass alone, due to lack of confirmed presence of largemouth bass in the lake. In response to those opposing the changes in the Missouri Reservoirs, FWP clarified the requirements of the Upper Missouri River Reservoirs Management Plan, the impacts of other predators on perch populations, and expectations of how the regulations will affect the size structure of the walleye populations. The Pelican Point Pond proposal received no comments, and FWP cites the original rationale for continuing to support adoption of this proposal.

Action: Commissioner Tourtlotte moved and Commissioner Wetsit seconded the motion to adopt FWP's proposed final regulation changes for the 2014 fishing season.

Chairman Vermillion asked for public comment.

Action on Motion: Motion Passed.

Becky Dockter, Chief Legal Council asked the Commission to take motion on the 2013 Fishing Regulations that were not changed.

Action: Commissioner Stuker moved and Commissioner Wetsit seconded the motion to approve the 2013 Fishing Regulations including the changes that were approved today. Motion passed.

13. Land Projects:

Director Hagener stated because of the sensitivity of acquisitions over the past few years, the Department's primary emphasis is looking at and managing current WMA areas; will look at acquisitions and exchanges with in holdings or adjacent lands to existing WMA's. Want to maintain the lands that we currently have.

Chairman Vermillion asked how much money is available at this time for land acquisition for this biennium and is the Department actively seeking land acquisitions opportunities for the sportsman and recreationalists of Montana other than conservation easements

(CE).

Ken McDonald, Wildlife Administrator explained funding, financial status for the biennium and the process of land proposals.

Director Hagener, McDonald and Commissioners had a lengthy discussion on land projects and programs.

North Shore Flathead Lake WMA Addition (R1) – Final

Ken McDonald, Wildlife Administrator explained FWP proposes to purchase approximately 189 acres of farmland and wetlands located along the north shore of Flathead Lake. Funding for the project would be provided by Bonneville Power Administration (BPA) through FWP's fisheries mitigation program to help offset impacts associated with the construction of Hungry Horse Dam. The landowner has agreed to sell this land to FWP for \$1.6 million, which is below the appraised market value of \$1.73 million. BPA would retain a perpetual conservation easement (CE) on the property. The purposes of the proposed land acquisition are to protect ground water, surface water, and wetlands on or near Flathead Lake for benefits of aquatic life and fish and wildlife habitat. Other benefits include ability to restore riparian/wetland and upland habitats, maintain annual crop production to benefit resident and migratory waterfowl, and provide opportunities for seasonal and compatible public recreation. This acquisition adjoins FWP's 160-acre North Shore State Park/WMA and the 2,362-acre federal Flathead Lake Waterfowl Production Area. FWP worked with numerous agency, tribes, and community organizations within the Flathead River to Lake Initiative in developing this project for two years prior to the decision to move forward. FWP issued its draft EA for a 31-day public review; held an open house/public hearing and notified the public and adjoining landowners about the project; received 36 public comments in support and no comments in opposition; two people and editors of the local paper who attended the open house/public voiced strong support.

Action: Commissioner Wolfe moved and Commissioner Wetsit seconded the motion that the Commission approve the North Shore WMA land acquisition as well as the deed of conservation easement to held by BPA as described in FWP's decision notice of September 6, 2013.

Chairman Vermillion asked for public comment.

Action on Motion: Motion Passed.

Elk Island WMA Addition (R7) – Final

Ken McDonald, Wildlife Administrator explained FWP proposes to purchase, by fee title approximately 36.5 acres of riparian cropland along the Yellowstone River adjacent to the existing 1,525-acre Elk Island WMA. The property is currently operated as a private irrigated farm; the current landowners approached FWP with an interest in selling. FWP will manage the property for public recreation and crop lands to provide food and cover resources for wildlife. FWP will purchase the land for the appraised value of approximately \$91,250 (approx. \$2,500/acre). Funding will come from the Habitat Montana account or a mix of Habitat Montana and federal sources (State Wildlife Grants), pending FWS approval. The EA for the project was released on September 10. Comments were accepted through October 1; 4 comments were received, all in support.

Action: Commissioner Tourtlotte moved and Commissioner Wetsit seconded the motion that the FW Commission approve the purchase of this approximately 36.5-acre addition to the Elk Island WMA.

Chairman Vermillion asked for public comment.

Action on Motion: Motion Passed.

Fish Creek WMA Addition (R2) – Endorsement

Ken McDonald, Wildlife Administrator explained in 2010, FWP acquired 40,807 acres from The Nature Conservancy to form the Fish Creek WMA and Fish Creek State Park. FWP proposes to acquire a 320-acre undeveloped, private in-holding within the Fish Creek WMA. The purchase is critical to maintain the integrity of the WMA and protect the fish, wildlife, and public access values from imminent subdivision development on two highly developable, un-zoned parcels. The proposed project would permanently protect a significant reach of the West Fork of Fish Creek, facilitate future enhancement activities, and fill a crucial gap in public ownership at a broader landscape level. The parcels would be incorporated into the WMA and managed for the benefit of fish and wildlife. The property is almost completely surrounded by public lands, including FWP's Fish Creek WMA, Department of Natural Resources and Conservation (DNRC) land to the east, and U.S. Forest Service (USFS) to the southwest and northwest. The property is west of the Forks FAS and the proposed Forks land acquisition. The property includes an ecologically critical 1.3 miles of the West Fork of Fish Creek, as well as 0.62 miles of Bear Creek, 0.36 miles of Trail Creek, and 0.24 miles of Winkler Gulch. It includes some of the highest white-tailed deer densities in the Fish Creek drainage. Fish Creek is the most intact tributary watershed in the middle Clark Fork region and supports its largest fluvial bull trout population and typically contains more redds than the rest of the tributaries in this region combined. An intact migratory corridor and rearing area in the main stem is vital to this bull trout population.

Garrity Mountain WMA Addition (R2) – Endorsement

Ken McDonald, Wildlife Administrator explained FWP proposes a fee-title acquisition of about 640 acres, contingent on negotiations and a current survey adjoining the Garrity Mountain WMA. This purchase would protect heavily used elk winter range, critical calving habitat, conserve aspen stands, riparian areas, intermountain grasslands and provide public access all within sight of Anaconda. The purchase would conserve native habitats targeted for conservation in both FWP's Comprehensive Fish & Wildlife Conservation Strategy (2006) and Natural Resource Damage Programs' (NRDP) Final Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans. This purchase would enhance FWP's ability to manage the WMA and would ensure it retains its integrity by precluding subdivision of this adjoining parcel and provide abundant recreational opportunities. The Conservation Fund and American Lands have provided considerable assistance in establishing this project. Potential funding sources would be NRDP and Habitat Montana with the possibility of a contribution by the Rocky Mountain Elk Foundation (RMEF). If approved to proceed and successful negotiation occurs with the current owner, FWP would release a draft EA, management plan, and socioeconomic assessment for public review, obtain public comment and hold a public meeting in Anaconda.

Vanisko Conservation Easement (R2) – Endorsement

Ken McDonald, Wildlife Administrator explained the Vanisko Ranch CE would encompass almost 7,100 acres bordering the Beaverhead-Deer Lodge National Forest. The diversity of habitats on the ranch is distinguished by significant riparian components and abundance of native grasslands. Funding would come from the State of Montana's settlement with Atlantic Richfield Company (ARCO) for damages to the Upper Clark Fork watershed. The high value of the property for conservation is also evidenced by its location within a Tier One Focus Area, as identified by the Montana Comprehensive Fish and Wildlife Conservation Strategy. The ranch provides habitat for most of Montana's big game and multiple nongame wildlife, including 11 species of greatest conservation need. It is adjacent to public lands on three sides and as a result provides important access to USFS and DNRC lands for hunting and other recreation. The Ranch has been the subject of two prior positive endorsements by the Commission. The Trustees of the NRDP deferred a decision on the CE in 2008, and FWP and the land-owners were unable to come to terms in 2009. The family remains interested a CE on the property; if necessary, they will sell the property to a private buyer. Land prices have declined since 2009 and if an easement is secured it should reduce the cost to FWP. FWP proposes to purchase a CE on the entirety of the Ranch, at appraised value, with a primary funding source being the NRDP. FWP would release a draft EA, management plan, and socioeconomic assessment for public review, obtain public comment and hold a public meeting in Deer Lodge.

Mt. Haggin WMA Addition (R3) – Endorsement

Ken McDonald, Wildlife Administrator explained the Mount Haggin WMA is a 58,000-acre property in Deer Lodge County. The north end of the WMA provides winter range habitat for elk, mule deer, and white-tailed deer. The 829-acre Silva property addition would block up conserved lands between the WMA and a 1,600-acre CE held by FWP with the Willow Glen Ranch. This is a strategic parcel that is integral to the wildlife habitat values on adjacent conserved lands and includes about ½ mile of Willow Creek, providing riparian

habitat as well as fishing and trapping opportunities. The parcel has topographic characteristics, road access, and electrical service that would lend itself to subdivision and development; if that were to occur, the habitat values for wintering elk and deer on the adjacent WMA and CE properties would be substantially impacted. Urban development would result in direct conflicts with wintering wildlife as well as hunting and other recreational uses. The parcel is for sale and does not represent an opportunity for a CE. Upon approval FWP will conduct appropriate public review and analysis. Funding source would be Habitat Montana and NRD collectively.

Wall Creek WMA Addition (R3) – Endorsement

Ken McDonald, Wildlife Administrator explained the Premier Bank Property purchase would add 640 acres of key winter range grassland habitat to the northern border of the Wall Creek WMA, currently 6,557 acres in the Madison Valley. Primary goal is to expand habitat and tolerance for wintering elk; other benefits include fawning and summer pronghorn habitat, and increased public hunting opportunity. FWP has worked with the RMEF on this proposed project. Purchasing the property would increase the size of the WMA by about 10 percent, a place where about 2,000 elk winter. The land has high conservation values, and is adjacent to FWP and BLM lands. Purchasing the property will require additional weed control and perimeter fencing to bring the property up to WMA standards. If FWP doesn't purchase the property, it is likely to be sold and further developed which would result in loss of elk habitat and other WMA habitat values. Upon endorsement, FWP will conduct appropriate public review and analysis.

Blackleaf WMA Addition (R4) – Endorsement

Ken McDonald, Wildlife Administrator explained FWP requested federal aid dollars in 2010 under USFWS ESA Recovery Land Acquisition HCP program to purchase interest in land for grizzly bear habitat and species protection. The grant is specific to assisting the recovery effort of the North Continental Divide Ecosystem (NCDE) grizzly bear population. This proposal is to secure approximately 316 acres of land from The Nature Conservancy (TNC) and The Conservation Fund (TCF) and would enhance the recovery effort as well as adding public access and recreational opportunity. This land is adjacent to the Blackleaf WMA and would become part of the WMA. With the Commission's endorsement FWP would proceed in doing all due diligence and continue discussions with TNC and TCF.

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission authorize FWP to pursue Fish Creek, Garrity Mountain, Vanisko Ranch, Mt. Haggin, Wall Creek and Blackleaf acquisitions.

Chairman Vermillion asked for public comment.

Nick Gevock, Montana Wildlife Federation (MWF) stated the acquisitions are great investments for the future; support acquisitions.

Glenn Hockett, Gallatin Wildlife Association (GWA) stated the acquisitions are vital public investments, expressed thanks for the time and effort put into the projects.

Jim Bailey, GWA asked if these are short or long time commitments and are they final.

Chairman Vermillion explained the motions are an endorsement to proceed, if approved the Department will have the opportunity to look at the transaction to see what can be done and if it is affordable; the Department will come back to the Commission with a tentative proposal with the specifics of the easement and at the time it will be put out for public comment.

Mark Albrecht, Bozeman strongly supports acquisitions.

John Gibson, PLWA stated if you are trying to buy a land easement it doesn't amount to anything. If you purchase the land, put an easement on it and resell it, you would break even and still have access.

Action on Motion: Motion Passed.

McDonald stated if a deal is worked out, an environment assessment (EA) is done through MEPA and public process begins.

Marias River WMA Exchange (R4) – Endorsement

Ken McDonald, Wildlife Administrator explained on February 5, 2013 FWP met with John Brekke, Marias River Bird Preserve, LLC, to discuss a potential land exchange. Mr. Brekke owns several parcels of land immediately adjacent to the Marias River WMA. Mr. Brekke currently has an access easement with another landowner to access his property as the existing county road does not extend to his property; the largest portion of his property is mostly directed by crossing a portion of the Marias River WMA known as the Black Bank. FWP has allowed Mr. Brekke to cross the WMA without restriction to access of his property. Mr. Brekke wishes to further develop his property but lack of secure access precludes him from moving forward. FWP and Mr. Brekke came to a proposed land exchange agreement that would transfer the parcel known as the Black Bank to Mr. Brekke to meet his need for secure access of approximately 15.9 acres, immediately adjacent to his property; both parcels are south of the Marias River; the total acreage transferred to Mr. Brekke is approximately 35.9 acres. In exchange, Mr. Brekke would transfer 76.7 acres of important wildlife habitat adjacent to the WMA to FWP, extend his access agreement with the adjacent landowner to FWP, and grant FWP administrative access to the Marias River WMA across his property. Upon endorsement, FWP will conduct appropriate public review and analysis.

Action: *Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission provide preliminary approval of the Marias River WMA exchange with Mr. Brekke, allowing FWP to conduct further negotiations, public review, and analysis.*

Chairman Vermillion asked for public comment.

Todd Burch, Custer Rod and Gun Club (CRGC) asked where the land lies.

Director Hagener stated the property is located on the upper portion of the river above Tiber Reservoir.

Dean Seitert, Miles City, stated he approves of all the projects; asked who will have the mineral rights.

McDonald stated the Department would look at mineral rights in the due diligence of the process.

Director Hagener stated the Department would acquire as much of the minerals as they possibly can.

Action on Motion: Motion Passed.

Jim Bailey, GWA asked about administrative access.

McDonald explained Mr. Brekke would gain administrative access across the Department's property to his and the Department would gain access across his to FWP's.

Commissioner Wolfe asked if the exchange is dollar for dollar.

McDonald stated it would be equal or greater, in favor of the Department.

Stellar Creek Conservation Easement (R7) – Endorsement

Ken McDonald, Wildlife Administrator explained FWP has been approached by a private conservation organization looking into the possible development of a CE partnership with FWP on 59,779 deeded acres of private land in Rosebud County and is currently for sale. The private entity has an interest in purchasing the property, and attaching an FWP conservation easement to the property. The vast majority of the property is still in native range. Property consists of sagebrush grassland, salt flats/greasewood flats, grassland, plains riparian and converted to crested wheatgrass. Conserving this property would help preserve several Tier 1 habitats, also located in the

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middle of Yellowstone Watershed Sage-Grouse Core Area. There are documented 6 active and 16 unconfirmed active sage-grouse leks located on or within 2 miles of the property. If a CE is completed through this process, public involvement would be consistent with other lands projects FWP has completed.

Action: Commissioner Tourtlotte moved and Commissioner Wetsit seconded the motion that the Commission give preliminary approval to the Stellar Creek project, allowing the Department to conduct further negotiations, public review, and analysis.

Chairman Vermillion asked for public comment.

Dean Seitert, Miles City and John Gibson PLWA Association asked about mineral rights.

McDonald stated this project is a CE, typically the owner maintains the mineral rights but there are provisions about development of mineral rights in the easement.

Commissioner Tourtlotte stated this seems like a valuable acquisition to pursue given the situation with the potential listing of sage grouse; very valuable to the Department.

Action on Motion: Motion Passed.

14. Emergency Deer Season Adjustments in Region 4 Due to EHD – Final

George Pauley, Wildlife Management Section Chief explained Epizootic Hemorrhagic Disease (EHD) is a common and somewhat chronic disease of white-tailed deer in Montana. The disease is transmitted by biting flies (midges), is seasonal, occurring in late summer/fall, and outbreaks conclude with the mortality of flies with the first killing frost. Minor outbreaks occur in Regions 4-7, almost annually. These outbreaks do not typically affect sufficient numbers of animals to warrant any season changes. This year, EHD mortality has been observed in Regions 5, 6, and 7, varying across the landscape, at low to moderate levels in some areas and harvest management is not warranted. White-tailed deer in the Missoula Valley in Region 2 are experiencing a substantial, epizootic event. Lab results are not yet available, but symptoms are consistent with EHD infection. A minimum of 190 deer have died in the valley, on the western edge of Missoula. If confirmed, this die-off will be the first known epizootic event from EHD in Region 2. The area is within the narrow HD 260 that encompasses the urban/valley area. Deer harvest regulations are liberal to address an array of conflicts and deer populations remain robust in the remainder of the HD. There is no need for hunting season adjustments in HD 260. White-tailed deer in

the portion of Region 4 from Great Falls, are experiencing EHD mortality at epidemic levels. Over much of the area, where white-tailed deer are normally common and numerous, deer are now scarce; mortality to date is 50% or more. White-tailed deer harvest regulations have been liberal with the objective of reducing abundance to minimize conflicts; adjustments to white-tailed deer harvest opportunities are not suggested but FWP is concerned that the tremendous drop in white-tailed deer hunting opportunity might result in substantial increases in mule deer doe harvests as hunters transfer effort to antlerless mule deer. FWP proposes replacing the either-sex, mule deer general hunting opportunity with antlered buck hunting in HD's 400, 401, 403, 404, and 406. Given the emergency nature of this change, and the start of the general season on October 26, it is necessary and appropriate to take final action at this meeting. Public comment will only be taken at that meeting. FWP initiated efforts to inform the public of this proposal early in the process.

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the FW Commission adopt the emergency adjustments to deer seasons, as presented by FWP.

Chairman Vermillion asked for public comment.

Ron Moody, Sportsman and former Commissioner stated he supports this emergency measure.

JW Westman, LRGC approves of the change in the districts; it is all about the resource.

Paul Ellis, Sportsman, asked if doe tags were going to change.

Pauley stated the Department is not looking at any over the counter licenses or B licenses this year.

Commissioners, Director Hagener, John Ensign, R-7 Wildlife Manager and Pauley had a lengthy discussion on the emergency closure.

Action on Motion: Motion Passed.

15. Wolf ARM Rules (SB200) – Proposed

Quentin Kujala, Wildlife Management Section Chief explained Senate Bill 200, passed by Montana's 63rd Legislature, provides for landowners or their agents without any wolf license to take wolves that are a potential threat to human safety, livestock or domestic dogs and gives authority for the Commission to create rules to implement this action. FWP is proposing other changes to the existing ARM based upon management experience and the wolf's successful transition to delisted status since the rules were originally adopted in October 2008. This action would present proposed rules for public comment. A standard public review would be followed by Commission consideration of comments and any modifications for final adoption at the conclusion of the comment period. To carry out the new legislation, FWP must have a method by which lawful take and reporting is formally defined and authorized. The proposed rules provide a means for SB 200 to be complied with while ensuring the lawful take of these wolves. The complete rulemaking process will take approximately four months to complete. The proposed amendments are:

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(1) The department has management authority of the gray wolf, a resident native wildlife species, and is dedicated to the conservation of wolf populations within the state of Montana. Pursuant to the definition of management under the Nongame and Endangered Species Conservation Act, 87-5-102, MCA, the department will implement conservation and management strategies to make sure that wolves continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. The department will manage wolves to assure that recovery criteria are met or exceeded. Montana will ensure maintenance of at least 15 breeding pairs and assist natural dispersal and connectivity between gray wolf populations in Canada, Montana, Idaho, and Wyoming. The department uses an adaptive management framework for the gray wolf, meaning that if the statewide number of wolves exceeds 15 breeding pairs, the department may, as outlined in these rules, approve lethal control of wolves. If there are fewer than 15 breeding pairs, the department will allow only conservative management of the wolf populations so that the number of breeding pairs does not go below 10 but may still approve lethal control. These rules set out the comprehensive structure governing control of the gray wolf so that all control actions fall within the department's adaptive management considerations. The commission has authority, when the statewide number of wolves exceeds 15 breeding pairs, to adopt a ~~hunting harvest~~ season with quotas for wolves and will exercise that authority as part of the adaptive management framework for the gray wolf. The department's management decisions will be guided by the principles of maintaining and enhancing Montana's contribution to the overall northern Rocky Mountain gray wolf population and the gray wolf's connectivity between contiguous populations in Canada, Idaho, Montana, and Wyoming.

(2) ~~This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

12.9.1302 DEFINITIONS The following definitions apply to this subchapter:

(1) "Adaptive management" means wolf conservation and management strategies that will maintain a recovered population and assure natural connectivity and genetic exchange among the wolf populations in Canada, Montana, Idaho, and Wyoming. It establishes resource objectives such as maintenance of a recovered population; it monitors progress towards meeting those objectives ~~through wolf numbers, distribution, dispersal, genetic diversity, and consideration of disease~~; and it adjusts management decisions to meet these resource objectives. Adaptive management directs selection of more conservative or liberal management tools, accordingly. ~~If wolf numbers, natural connectivity, or genetic exchange ever become conservation concerns, a~~ Adaptive management allows the department a full range of tools to ensure a recovered and connected population, ~~including more conservative lethal control, smaller regulated harvest quotas, and human assisted genetic exchange.~~

(2) "Agency" means the Department of Fish, Wildlife and Parks or another agency of government authorized by the Department of Fish, Wildlife and Parks through an interagency cooperative agreement.

(3) "Attacking" means the actual biting, wounding, or grasping of livestock or domestic dogs.

(4) "Breeding pair" means an adult male and an adult female wolf ~~that have produced and~~ at least two pups that survived until December 31 of the year of their birth, during the previous breeding season.

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(5) "Confirms", "confirmed", or "confirmation" means an incident where ~~the department or~~ USDA Wildlife Services determines through a field investigation of dead or injured livestock that there is reasonable physical evidence that the animal was actually attacked and/or killed by a wolf. ~~The primary confirmation would ordinarily be the presence of bite marks and associated subcutaneous hemorrhaging and tissue damage, indicating that the attack occurred while the victim was alive, as opposed to simply feeding on an already dead animal. Spacing between canine tooth punctures, feeding pattern on the carcass, fresh tracks, scat, hairs rubbed off on fences or brush, and/or eye witness accounts of the attack may help identify the specific species or individual responsible for the depredation. Predation might also be confirmed in the absence of bite marks and associated hemorrhaging (i.e., if much of the carcass has already been consumed by the predator or scavengers) if there is other physical evidence to confirm predation on the live animal. This might include blood spilled or sprayed at a nearby attack site or other evidence of an attack or struggle. There may also be nearby remains of other victims for which there is still sufficient evidence to confirm predation, allowing reasonable inference of confirmed predation on the animal that has been largely consumed.~~

(6) "Habituated" means readily visible in close proximity to people or structures on a regular basis; not threatened by close proximity and may even be attracted to human presence or human food sources; extremely rare behavior in wild wolves, but typical behavior for released captive wolf or wolf-dog hybrid; for wolves, may or may not involve food conditioning.

(7) "Intentional harassment" means the deliberate and preplanned harassment of a wolf by less than lethal munitions, including but not limited to, 12 gauge shot gun rubber bullets and bean bag shells, that are designed to cause physical discomfort and temporary physical injury but not death. Intentional harassment may also include other devices intended to make noise such as 12 gauge shot gun cracker shells, RAGG boxes, propane cannons, or sirens.

(8) "Lethal control" means killing a wolf except for hunting or trapping by the public as authorized by the commission as part of a regulated public harvest.

(9) "Livestock" means bison as defined in 81-1-101, MCA, cattle, calf, hog, pig, horse, mule, sheep, lamb, llama, goat, herding or guarding animals, rhea, emu, ostrich, donkey, and certain breeds of dogs commonly used for herding or guarding livestock.

(10) "Nonlethal control" means actions intended to decrease the risk of conflict that does not injure or kill a wolf.

(11) "Opportunistic hazing in a noninjurious manner" means harassment, without the conduct of prior purposeful actions, such as yelling and radio activated noise makers, or use of firearms to scare or discourage a wolf in a way that does not injure or kill the wolf.

(12) "Problem wolf" means a wolf that has been confirmed by the department or USDA Wildlife Services to have attacked or been in the act of attacking livestock within the past 45 days.

(13) "Threatening to kill" means the actual chasing, testing, molesting, harassing of livestock or livestock herding/guarding animals that would indicate to a reasonable person that an attack was imminent.

(14) "USDA Wildlife Services" means the Wildlife Services Division of the United States Department of Agriculture, Animal and Plant Health Inspection Service.

~~(15) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

12.9.1303 CONTROL METHODS OF THE GRAY WOLF INCLUDE NONLETHAL AND LETHAL MEANS (1) These rules address when and how the department may carry out nonlethal and lethal control of wolves.

(2) ~~To undertake control actions that are consistent with this rule and the Montana Gray Wolf Conservation and Management Plan, The department may:~~

(a) take control actions;

~~(b) pursuant to an interagency cooperative agreement, may authorize USDA Wildlife Services to undertake control actions pursuant to an interagency cooperative agreement; or~~

~~(c) pursuant to an interagency cooperative agreement, may authorize the Department of Livestock pursuant to an interagency cooperative agreement, to undertake control actions that are consistent with this rule and the Montana Gray Wolf Conservation and Management Plan.~~

~~(d) issue permits to individuals pursuant to ARM 12.9.1305.~~

(3) The department is responsible for ~~any lethal control decision and for~~ the status, conservation, and management of the gray wolf population as a state species in need of management, game animal, or a furbearer as guided by the Montana Gray Wolf Management Plan, administrative rules, and statutes.

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~~(3) (4) Control of the gray wolf by an agency or an individual may include nonlethal and lethal actions. The department shall address wolf conflicts on a case-by-case basis, connecting response to the conflict in both time and location to direct nonlethal and lethal actions to a wolf or wolves with the highest likelihood of having injured or killed the livestock.~~

~~(4) (5) The department shall take an incremental approach to lethal control.~~

~~(5) (6) Killing or harassing a wolf not in conformance with these rules is subject to criminal penalties pursuant to 87-1-102, 87-1-125, 87-5-106, and 87-5-111, 87-6-201, and 87-6-203, MCA, as applicable.~~

~~(6) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

12.9.1304 ALLOWABLE NONLETHAL CONTROL OF THE GRAY WOLF

(1) Control of the gray wolf includes a variety of nonlethal management activities intended to decrease risk of, prevent, or resolve a conflict without killing the wolf in question. Allowable nonlethal control activities include, but are not limited to:

(a) husbandry practices including, but not limited to, electric fencing, increased human presence, fladry, herding or guarding animals, night pens, shed lambing, carcass removal, alternative pastures, amended pasture or grazing rotations, or supplemental feed;

(b) placement of a radio collar to facilitate increased monitoring of the pack;

(c) opportunistic hazing in a noninjurious manner;

(d) intentional harassment;

(e) department discouraging wolves from denning in a particular location;

(f) carcass removal or electric fencing of bone yards (e.g., localized livestock disposal sites which attract a variety of scavengers); and

(g) working with interested individual livestock owners and private landowners, watershed groups, interested groups, state and federal land managing agencies, USDA Wildlife Services, and the Montana Livestock Loss Reduction and Mitigation Board and its coordinator to provide technical assistance and to assist with selection and implementation of proactive nonlethal controls on both public and private lands when and where livestock are present, either seasonally or yearlong. Examples include: allotment management or annual operating plans; Wildlife Management Area or other state land grazing leases; and, predator deterrent programs offered through the United States Department of Agriculture Natural Resource and Conservation Service Environmental Quality Incentive Program.

(2) The department will also work with others to better understand the effectiveness of nonlethal activities to prevent or decrease the likelihood of wolf-livestock conflicts.

~~(3) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

12.9.1305 ALLOWABLE LETHAL CONTROL OF THE GRAY WOLF

~~(1) On a case-by-case basis, the commission delegates its authority to the department to may authorize lethal control of problem wolves. only the~~
~~department may authorize the following to conduct lethal control of problem wolves:~~

~~(a) agency control by the department,~~

~~(b) USDA Wildlife Services, or the Department of Livestock pursuant to an interagency cooperative agreement that outlines the procedures for verifying the needs for lethal control and as part of a coordinated agency response; or~~

~~(c) Department of Livestock pursuant to an interagency cooperative agreement that outlines the procedures for verifying the needs for lethal control and as part of a coordinated agency response.~~

~~(b) (d) control by a livestock owner, immediate family member, or employee, or other person authorized by the department with a permit issued by the department under the conditions authorized and specified on the permit; and~~

~~(e) (e) control to protect human safety, and~~

~~(f) control pursuant to 87-1-901, MCA.~~

(2) The department may authorize lethal control of a problem wolf, after considering the number of breeding pairs within the state and other factors in these rules.

(3) Before considering lethal control of a problem wolf for livestock conflict, the department or USDA Wildlife Service shall conduct the following investigation:

(a) the department or USDA Wildlife Services will conduct a field investigation to determine if the death of the livestock was due to natural causes or a predator; and

(b) if a predator killed the livestock, the department or USDA Wildlife Services will examine the evidence at the scene to determine if a wolf was responsible.

~~(4) If the department or USDA Wildlife Services confirms that a wolf killed the livestock, the department will consider input from USDA Wildlife Services and the livestock owner and decide the best course of action. The department may authorize incremental lethal control for problem wolves for upto 45 days from the date of confirmation by USDA Wildlife Services, assessing each conflict on a case-by-case basis and after considering the following factors:~~

~~(a) pack size and pack history of conflict;~~

~~(b) livestock operation;~~

~~(c) age and class of livestock killed;~~

~~(d) location of conflict;~~

~~(e) potential for future conflict;~~

~~(f) status and distribution of prey;~~

~~(g) season;~~

~~(h) number of breeding pair within the state;~~

~~(i) effectiveness and prior use of nonlethal control; and~~

~~(j) verification that wolves are not intentionally baited or drawn to the area, wolves are routinely present, and that nonlethal tools are unlikely to prevent further incidents of injured or dead livestock.~~

~~(5) (4) The department has the discretion to lethally remove or authorize removal of a gray wolf if the department determines that the wolf is:~~

~~(a) bold;~~

- (b) food conditioned;
 - (c) habituated to humans or livestock;
 - (d) demonstrates abnormal behavior patterns or physical characteristics indicative of a wolf-dog hybrid or of captive origin; or
 - (e) if it poses an immediate or ongoing threat to human safety.
- (6) (5) Pursuant to 87-5-109, MCA, the director of the department may permit killing, possessing, transporting, or exporting of a wolf for scientific, zoological, or educational purposes.
- (7) (6) The department may kill or remove a sick, injured, or diseased wolf.
- (8) (7) To further conservation of the species, the department may capture and translocate a wolf or use other human assisted techniques.
- (9) (8) The department may authorize a livestock owner, immediate family members, or employees by a permit to take a problem wolf under the following circumstances and conditions as part of a coordinated agency response to confirmed livestock damage due to wolves:
- (a) when the department or USDA Wildlife Services confirms that a wolf killed the livestock; ~~and when the department or USDA Wildlife Services confirms wolves are routinely present on the property or allotment and present a significant ongoing risk to livestock;~~
 - (b) ~~the department has authorized USDA Wildlife Services to implement lethal control to resolve conflict;~~
 - (e) (b) when the department or USDA Wildlife Services determines that the wolf was not purposefully or intentionally fed or baited to a site;
 - (d) (c) the permit may last for a maximum of 45 days from the date the department or USDA Wildlife Services confirms the wolf caused damage and any wolf killed within the 45 days will be counted towards the number specified on the permit;
 - (e) (d) the permit expires when the total desired number of wolves are removed by the combined action of the department, USDA Wildlife Services, and individuals named on the permit, or at the end of the 45 days, whichever is first;
 - (f) (e) within 24 hours, a person must report to the department killing or injuring a wolf under a permit;
 - (g) (f) to preserve the physical evidence, the permittee shall leave the carcass of any wolf killed where it lay, and shall not disturb the area surrounding the carcass; and
 - (h) (g) surrender the carcass to the department.
- (10) (9) The permit must specify:
- (a) its duration and expiration date;
 - (b) total number of wolves that may be lawfully killed through the combined actions of the individuals named on the permit or other department authorization and the department or USDA Wildlife Services;
 - (c) the geographic area where the permit is valid; and
 - (d) that wolves may be killed using means of take authorized by the commission for wolf harvest seasons ~~from the ground and in a manner that does not entail the use of intentional live or dead baits, scents, or attractants or deliberate use of traps or snares, or poisons; or use of radio telemetry equipment.~~
- (11) (10) As allowed by ~~87-3-130~~ 87-1-901 and 87-6-106, MCA, any person may kill without permit or license a wolf that is attacking, killing, or threatening to kill a person or livestock, or that is in the act of attacking or killing a domestic dog. A person may not intentionally bait a wolf with domestic dogs or livestock for the purpose of killing the wolf.
- (a) This person shall notify the department within 72 hours, preserve the scene, leave the carcass where it was killed until the department investigates the scene, and surrender the carcass to the department. USDA Wildlife Services will investigate and determine the cause of any injured or dead livestock.

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(11) A landowner or landowner agent, pursuant to 87-1-901, MCA, may take a wolf on the landowner's property without permit or license when the wolf is a potential threat to human safety, livestock, or domestic dog until the quota established by the commission under 87-1-901, MCA is met.

(a) Wolves representing a potential threat to human safety, livestock or dogs do not include wolves that might routinely use an area as free ranging wildlife.

(b) This landowner or landowner's agent shall:

(i) notify the department within 24 hours;

(ii) preserve the scene;

(iii) leave the carcass where it was killed until the department investigates the scene; and

(iv) surrender the hide, skull and carcass to the department.

(c) Any take after the quota established by the commission under 87-1-901, MCA is met is subject to criminal penalties pursuant to, 87-5-106, 87-5-111, 87-6-201, and 87-6-203, MCA, as applicable.

(12) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission propose the amendments to the wolf administrative rules as presented.

Chairman Vermillion stated this is the beginning process and there will be a lot of time for public comments.

Director Hagener explained the dealings with the legislature and the management of wolves

Chairman Vermillion asked for public comment. Commissioner Wolfe asked when the final rule will be brought before the Commission.

Chairman Vermillion stated the final ruling will be in March or April 2014.

Action on Motion: Motion Passed.

16. Elk Management Guidelines in Areas with Brucellosis 2014 Work Plan – Final

Quentin Kujala, Wildlife Management Section Chief explained in January 2013, the Commission endorsed elk management recommendations from a citizen working group for application in areas with brucellosis and a 2013 work plan in February. The 2013 work plan included hazing, fencing and dispersal hunts as management actions available for implementation. While recommendations from the citizen working group identified local working groups, that functionality has not been definitively identified in all areas despite efforts to do so. The 2014 plan was assembled by FWP with input from the statewide working group that met in Bozeman July 11 to review 2013 efforts and included a public comment period. A proposed 2014 work plan was presented on August 8 and several modifications based upon 2013 experiences and expanded upon the 2013 plan with renewed emphasis on local working groups and education/outreach. The 2014 plan has been proposed that any work plans developed using local working group input, may be brought to the Commission at a future time as an addition or replacement to the 2014 plan. In response to public comments, the proposed 2014 work plan has been modified for final presentation. Those modifications generally include greater detail and definition to specific

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implementation tools and process. The public comment deadline was extended from September 9 to September 13; 30 comments were received and individual examples of support and opposition are present with one consistent theme being the continued expectation for local working groups. FWP staff attended two watershed meetings and one sporting group meeting where this plan and process was described. A full copy of the 2014 work plan is available in the Wildlife Division.

Action: Commissioner Tourtlotte moved and Chairman Vermillion seconded the motion that the Commission adopt the proposed 2014 annual work plan for elk management in areas with brucellosis as modified and proposed by FWP.

Commissioner Stuker, Chairman Vermillion and Kujala discussed landowner rights.

Chairman Vermillion stated he is a strong proponent of local working groups.

Chairman Vermillion asked for public comment.

Mark Albrecht, Bozeman stated he is delighted to hear of local working groups being formed; FWP cannot do management action without a working group; need to commit to a deadline.

Jim Bailey, GWA stated needs to be more commitment and be rigor.

Kathryn QannaYahu, GWA opposes work plan; requested the Department follow MEPA.

Glen Hockett, GWA volunteered to establish a working group; very concerned about elk management; opposes plan as is, very complex issue.

JW Westman, LRGC asked the Commission to postpone their decision; band-aid approach, opposes plan.

Nick Gevock, MWF stated this is a very complex issue; April 30 is too late to be harvesting elk; sportsman/women in the Gallatin area are eager to get involved and the conversation going.

Ron Moody, Sportsman and former Commissioner gave a lengthy comment regarding the past and current work plan.

Chairman Vermillion stated in the report for next August the Department should make an effort to ascertain how much this is costing so sportsman can see where their dollars are allocated; as well as comparisons of different approaches and how they are working. Local working groups depend upon local participation; people in Bozeman want to participate. The Commission does have to approve any actions the local working group comes forward with.

Commissioner Wolfe asked who appoints the local working group members.

Kujala stated they take advantage of individuals/groups that enhance ownership; anybody from any part of the state may participate in conversation.

Commissioner Wolfe stated there are qualified individuals on the landscape that want to be part of the working group; be inclusive as these groups are established.

Action on Motion: Motion Passed.

17. Public Comment – For Issues Not On This Agenda

Ron Moody, Sportsman and former Commissioner stated owning land costs money; there is not enough money to adequately maintain good quality wildlife habitat with the current revenue sources.

John Gibson, PLWA Association wants to see the wildlife connected to the land, not the people; need to manage the resources.

Unnamed, State of Montana has to remember how good we have it here and protect our resources.

JW Westman, LRGC want status quo on the breaks.

Steve Schindler, Montana Bowhunters Association supports status quo.

Todd Burch, for status quo.

Unnamed, Pheasants Forever stated license fees are too low and need more Block Management.

John Kelley, President Walleye Unlimited of Montana, need to education everyone on Aquatic Invasive Species; could hurt our resources in the future.

Sam Milodragovich, Montana Sportsman Alliance supports status quo.

Nick Gevock, MWA supports continuation of the current permit system.

Paul Ellis, Outfitter stated FWP is taking economic benefits away; public comments were opposed to archery elk permits in the past; we need to work together; look at the 2004 elk management plan.

Commissioner Tourtlotte thanked Region 7 for hosting the open house and meeting; appreciates the people coming to Miles City to speak.

Action: *Commissioner Stuker moved and Commissioner Wetsit seconded the motion to adjourn the meeting. Motion Carried.*

The meeting adjourned at 2:03 p.m.

Dan Vermillion, Chairman

M. Jeff Hagener, Director